

JUAN X. HIGH,)	
)	
Plaintiff,)	3:05-CV-0241-LRH(RAM)
)	
vs.)	
)	
JAMES BACA, <i>et al.</i> ,)	<u>ORDER</u>
)	
Defendants.)	
	/	

Defendants argue that Plaintiff’s *in forma pauperis* status should be revoked and he should be required to pay a filing fee because he is subject to the “three strikes” rule set out in 28 U.S.C. § 1915(g).

28 U.S.C. § 1450 allows all orders, injunctions and other proceedings in an action removed to federal court to remain in force “until dissolved or modified by the district court.” *Id.* Moreover, upon removal, any interlocutory order issued by the state court in the action is subject to enforcement or reconsideration as though it had been entered by this court. *Nissho-Iwai American Corp. v. Kline*, 845 F.2d 1300, 1303 (5th Cir. 1988). This serves to protect the various rights of the parties during the transition from state to federal court. However, the statute was not designed to give state court orders or injunctions any greater force or effect that they would have had the order or

1 injunction been issued in federal court. *Granny Goose Foods, Inc. v. Brotherhood of Teamsters and*
2 *Auto Truck Drivers Local No. 70*, 414 U.S. 423, 436 (1974). Thus, it appears that the court has the
3 present authority to revoke the state court's grant of *in forma pauperis* status if there are grounds for
4 that revocation. However, because the filing fee in the matter has already been paid in full by
5 defendants upon removal of the action, and service of process has been effected on the defendants,
6 the rescission of plaintiff's pauper status would be of no practical effect.

7 The purpose of 28 U.S.C. § 1915 is not to bar vexatious prisoner litigants from the
8 courthouse, but to require them to pay the filing fee to proceed with cases they do bring, unless they
9 can show they are faced with imminent danger of serious physical injury. Even if plaintiff has come
10 under the three strikes rule of 28 U.S.C. § 1915(g) and would not have obtained *in forma pauperis*
11 status had he originated this action in federal court, it would be inequitable to collect more than one
12 filing fee in a civil action. Defendants chose to remove the action and they have paid the filing fee.
13 The motion shall be denied.

14 **IT IS FURTHER ORDERED** that Defendants' Motion to Revoke Plaintiff's *In*
15 *Forma Pauperis* Status Pursuant to 28 U.S.C. § 1915(g) (Doc. #41) is **DENIED**.

16 **IT IS FURTHER ORDERED** that the Stay entered pending a decision on this
17 Motion (Doc. #44) is lifted.

18 Dated this 1st day of May, 2006.



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21 UNITED STATES MAGISTRATE JUDGE